

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROGER WILLIAMS, §
Plaintiff, §
v. § C.A. No. 4:16-cv-2685
NEW YORK LIFE INSURANCE §
COMPANY, §
Defendant. §

NOTICE OF REMOVAL

Defendant, for the purpose only of removing this cause to the United States District Court for the Southern District of Texas, Houston Division, respectfully states as follows:

1. **State Court Action.** This is an action filed by Plaintiff on July 28, 2016 in the 281st Judicial District Court of Harris County, Texas, being numbered 2016-50145 on the docket of said court, and essentially being a suit by Plaintiff to recover benefits under a life insurance policy.
2. **Diversity of Citizenship.** This action is removable under 28 U.S.C. § 1332 inasmuch as the amount in controversy exceeds \$75,000.00 and is between parties with diverse citizenship. Plaintiff is a citizen of Texas (*see* Plaintiff's Original Petition, ¶ II), and Defendant is a New York corporation, with its principal place of business in New York, New York (*see* Declaration, Ex. A). Therefore, Plaintiff is a citizen of Texas, and Defendant is a citizen of New York for removal and diversity purposes. There is

complete diversity of citizenship between Plaintiff and Defendant at the time of filing suit and at the time of removal.

3. **The Amount in Controversy Exceeds \$75,000.** Plaintiff's Petition specifically alleges damages over \$100,000.00, plus treble damages, and an unspecified amount of damages for attorneys' fees (Petition, ¶¶ IV and VI). This Court therefore has original jurisdiction pursuant to 28 U.S.C. § 1332, and Defendant has shown by a preponderance of the evidence that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See Norplant Contraceptive Products Litigation*, 918 F.Supp. 178 (E.D.Tex. 1996) (removal is proper if defendant shows by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional amount). This action is wholly of a civil nature.

4. **Removal is Timely.** Removal is also timely under 28 U.S.C. § 1446(b), inasmuch as Defendant has not been served with process.

5. **State Court Documents Attached.** Defendant has not been served with process to date. Therefore, this removal is timely under 28 U.S.C. § 1446(b). Pursuant to Rule 81 of the Local Rules for the Southern District of Texas, the following documents are attached to this Notice as corresponding lettered exhibits:

<u>Document</u>	<u>Date Filed</u>
B. Docket Sheet	N/A
C. Plaintiff's Original Petition and Request for Disclosure	07/28/2016
D. Civil Case Information Sheet	07/28/2016
E. Civil Process Request Form	07/28/2016
F. Plaintiff's First Set of Interrogatories and First Request for Production to Defendant, New York Life Insurance	07/28/2016

<u>Document</u>	<u>Date Filed</u>
Company	
G. Defendant's Original Answer	09/02/2016

A List of Parties, Counsel, and State Court Information is set forth in the Supplemental Civil Cover Sheet attached hereto.

6. **Notice.** Defendant will give notice of filing of the Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d) and will file with the state court a notice of filing this Notice of Removal.

7. **Prayer.** Defendant prays that the United States District Court for the Southern District of Texas, Houston Division, accept this Notice of Removal, that it assume jurisdiction of this cause, and that it issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

Dated: September 2, 2016

Respectfully submitted,

By: /s/ Andrew G. Jubinsky
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on the parties listed below on September 2, 2016.

Via CMRR:

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/s/ Andrew G. Jubinsky
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